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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,887	09/16/2003	Alvin S. Blum	B70326	4502
27321	7590	06/03/2004	EXAMINER	
ALVIN S. BLUM 2350 DELMAR PLACE FORT LAUDERDALE, FL 33301				HUYNH, KHOA D
ART UNIT		PAPER NUMBER		
		3751		

DATE MAILED: 06/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/663,887	BLUM, ALVIN S. <i>CJO</i>
	Examiner Khoa D. Huynh	Art Unit 3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 16 September 2003.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-16 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-16 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
     Paper No(s)/Mail Date 09/16/04.
- 4) Interview Summary (PTO-413)  
     Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

**DETAILED ACTION*****Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1-16, as presently understood and given the broadest reasonable interpretations, are rejected under 35 U.S.C. 103(a) as being unpatentable over Iwakura (GB 2188545) in view of Willis (2690568).

Regarding claims 1, 5 and 8, the Iwakura reference discloses a one-piece, self-contained disposable device for receiving waste, i.e. urine from a person.

The device includes a waterproof bag (10) having a top opening (10a), a closed bottom and opposed long sides. The device further includes sealing means (11) encircling an inner aspect of the bag adjacent the top opening.

The Iwakura reference DIFFERS in that it does not specifically include a pair of tubular members as claimed. Attention, however, is directed to the Willis reference which discloses another urinary disposable device (Fig. 7) having a top opening, a closed bottom (col. 5, lines 4-6), opposed long side and a pair of tubular loops or members (col. 3, lines 28-32) affixed to and extended along the long sides. Each of the members includes an aperture dimensioned for receiving a finger therein such that the fingers may hold open the top opening while positioning the fingers and device around a urine discharge orifice of the person.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the Iwakura device by employing a pair of tubular members, in view of the teaching of Willis, in order to provide a convenient holder mechanism that allows the user to position and adjust the device without dropping it while preventing the user's hand from the touching the waste.

Regarding claims 2 and 9, the device is construct of plastic material.

Regarding claims 3, 10 and 12, the sealing means is a rib (11a) and groove (11b) mechanism (Fig. 2).

Regarding claims 4, 11 and 13, each of the members also includes a grasping tab (the edge portion of the member as schematically shown in Figure 7) that is capable of being used to facilitate the insert of the fingers in the members. Furthermore, since applicant does not specifically show the detailed structure of the grasping tab, it is reasonable for the examiner to take the position that the grasping tab is the edge portion of the loop or member.

Regarding claims 6, 7, 14 and 15, each of the members also includes an annular element (in the form of a stiffer material that allows the loops or members to be free from flattened) at the aperture constructed to hold the aperture open.

Claim 16 is the combination of the claims 8 and 15 which are rejected as discussed above.

***Conclusion***

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Cross ('712), Cross ('161), and Belisle were cited to show a disposable urinary device having a pair of loops for allowing a user to grasp hold and position the device. Horn was cited to show a portable urinary device having a pair of loops for allowing a user to grasp hold and position the device, and sealing means to prevent leaking during transport of the waste.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoa D. Huynh whose telephone number is (703) 306-5483. The examiner can normally be reached on M-F (7:00-4:30) Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on (703) 308-2580. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Art Unit: 3751

Khoa D. Huynh

Khoa D. Huynh  
Patent Examiner  
Art Unit 3751

HK

05/31/2004